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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,050	08/29/2003	Richard M. Powell	87276.1600	8987
7590 05/11/2005			EXAMINER	
BAKER & HOSTETLER LLP Washington Square, Suite 1100 1050 Connecticut Avenue, N.W. WASHINGTON, DC 20036			WILSON, GREGORY A	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/651,050	Applicant(s) POWELL ET AL.	
	Examiner Gregory A. Wilson	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 11-16, 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 9, 17 and 21 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, filed 8/30/04 with respect to the rejection(s) of claim(s) 1, 4-9, 15, 17, 19, and 21 under Hutchinson (6,393,212) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Davies et al (5,467,424) and Davies et al in view of Bleckmann (5,020,128).

Davies et al (5,467,424) was cited by the examiner in office action dated 2/10/04, in which case the applicant filed arguments dated 5/6/04 to overcome. The rejection was withdrawn in office action dated 6/22/04, but upon further review of the reference and the applicants reply to the reference, the examiner has reconsidered his position and is herewith reintroducing Davies et al as a viable reference over the applicants claimed invention. The applicants primary argument against the Davies et al reference was that Davies et al does not teach a substantially rigid, generally tubular vessel located within a housing. Attention is directed to Figure 6, in which case a marked up copy of Figure 6 has been included in the office action to show what the examiner considers to be the housing. Using this logic, the tubular vessel (10) is within the housing and also encloses the heating element (24). The vessel (10) is substantially rigid and is illustrated as being tubular in Figures 1 and 2. This is deemed to properly read on the applicants' claimed invention.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 9, 17, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Davies (5,467,424). Davies et al discloses an apparatus for generating steam and includes a housing (unnumbered, but is the portion surrounding the boiler, SEE Figure 6), a substantially rigid, tubular vessel (10) located within the housing, a heating element (24) located with the tubular vessel, a water inlet (34), a steam outlet (50), a valve (inherent) configured to regulate the amount of water applied to the water inlet based on the water level (SEE column 3, lines 17-26), a piping (drain tube and valve) located at a low point to provide draining (SEE column 3, line 50-54), and a water level controller (SEE column 2, lines 25-28).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies et al (5,467,424) in view of Bleckmann (5,020,128). Davies et al discloses the applicant's primary inventive concept as stated above, but does not particularly teach

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the means in which the tubular vessel is attached to the housing. Bleckmann teaches in Figure 1 an immersion tubular heater with a flange plate configured for receiving fasteners for attaching to a tubular vessel. It would have been an obvious to a person having ordinary skill in the art at the time the invention was made to modify the tubular vessel of Davies et al by having a flange on one end of the heating element as taught by Bleckmann for receiving fasteners for attaching the tubular vessel, since the applicant has not disclosed that having a flange solves any stated problem or is for any particular purpose and it appears that the steam generator of Davies et al would perform equally well with any desired attachment means between the tubular vessel and the housing since they do not affect the functionality of the invention.

Allowable Subject Matter

Claim 5, 6, 8, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7, 11-16, 18, and 19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (703) 308-1239. The examiner can normally be reached on 7 am - 4:30 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GREGORY WILSON
PRIMARY EXAMINER
Gregory A. Wilson

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May 5, 2005

